

ESTTA Tracking number: **ESTTA525605**

Filing date: **03/08/2013**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Citigroup Inc.
Granted to Date of previous extension	03/10/2013
Address	399 Park Avenue New York, NY 10043 UNITED STATES

Attorney information	Anita B. Polott Morgan, Lewis & Bockius LLP 1111 Pennsylvania Ave., N.W. Attn: TMSU Washington, DC 20004 UNITED STATES trademarks@morganlewis.com, apolott@morganlewis.com, jrubel@morganlewis.com, chowell@morganlewis.com
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Applicant Information

Application No	85447523	Publication date	09/11/2012
Opposition Filing Date	03/08/2013	Opposition Period Ends	03/10/2013
Applicant	Mascotte Holdings, Inc. c/o Pryor Cashman LLP, 7 Times Square New York, NY 10036 UNITED STATES		

Goods/Services Affected by Opposition

Class 009.

All goods and services in the class are opposed, namely: Computer software, programs and CD-ROMs featuring educational subject matters in the fields of reading and writing, mathematics, science, history, social studies, political science, religious studies, languages, the arts, music, film, dance, engineering, photography, graphic design, computers, health and fitness, nutrition, physical education, drug and gang prevention, teenage pregnancy, self esteem issues, discipline, and conflict resolution; children's educational software; children's educational music CDs and DVDs; computer software and computer programs for mobile phones for games, screen savers, musical sound and video recordings, organizing and viewing digital images and photographs, processing digital music files, and use in relation to digital animation and special effects of images, computer game software, computer screen saver software, computer software featuring musical sound and video recordings, computer software for organizing and viewing digital images and photographs, computer software for processing digital music files, computer software use in relation to digital animation and special effects of images; magnets; decorative magnets; refrigerator magnets; novelty magnets; mouse pads; compact disc cases; fitted cases for storage and transportation, namely, cases for compact discs, audio cassettes, video cassettes, CD-ROMs, home video games, home video game accessories, computers, computer accessories, cameras, camcorders, phones, personal digital


assistants, two-way pagers, mobile devices, and radios; computer carrying cases; wrist rests and supports for computer mouse users; wrist rests for computers and computer accessories; computer keyboard wrist pads; jackets for video cassettes, tapes, and discs; musical sound recordings; audio-visual recordings, namely, compact discs, tape cassettes, audio cassettes, audio tapes, audio discs, phonograph records, CD-ROMs, video tapes, video cassettes, video discs, DVDs, DATs, MP3s, and laser discs, all featuring music, entertainment, education, animation, and documentaries; downloadable musical sound recordings; downloadable video recordings featuring subject matters for children, students, and young adults, namely, music, popular culture, entertainment news, reality based entertainment, television, film, animation, the arts, comedy, drama, dramedy, news, lifestyles, culture, sports, politics, and educational subject matters, namely, reading and writing, mathematics, science, history, social studies, political science, religious studies, languages, the arts, music, film, dance, engineering, photography, graphic design, computers, health and fitness, nutrition, physical education, drug and gang prevention, teenage pregnancy, self esteem issues, discipline, and conflict resolution; downloadable electronic publications in the nature of books, booklets, magazines, journals, manuals, brochures, leaflets, pamphlets and newsletters, all in the field of music, education, entertainment, television, film, animation, the arts, comedy, drama, dramedy, news, lifestyles, culture, sports, politics, educational subject matters, and biographies of and narrations by musicians, comedians, athletes, role models, television and movie stars, radio personalities, and celebrities; electronic publications, namely, books, booklets, magazines, journals, manuals, brochures, leaflets, pamphlets and newsletters, all in the field of music, popular culture, entertainment news, reality based entertainment, television, film, animation, the arts, comedy, drama, dramedy, news, lifestyles, culture, sports, politics, and educational subject matters, namely, reading and writing, mathematics, science, history, social studies, political science, religious studies, languages, the arts, music, film, dance, engineering, photography, graphic design, computers, health and fitness, nutrition, physical education, drug and gang prevention, teenage pregnancy, self esteem issues, discipline, and conflict resolution, biographies and narrations of comedy and drama stores, and biographies and news by musicians, comedians, athletes, role models, television and movie stars, radio personalities, and celebrities, all recorded on CD-ROMs, diskettes, floppy disks, video cassettes, and magnetic tapes; downloadable ring tones, graphics and music via a global computer network and wireless devices; computer game cartridges, discs, cassettes, tapes, joysticks, programs and software; hand held joy stick units for playing video games; video game cartridges, video game discs, and video game tape cassettes; video game software, video game programs, and, video game joysticks; video magazine recorded on electronic media featuring music, popular culture, entertainment news, reality based entertainment, television, film, animation, the arts, comedy, drama, dramedy, news, lifestyles, culture, sports, politics, and educational subject matters, namely, reading and writing, mathematics, science, history, social studies, political science, religious studies, languages, the arts, music, film, dance, engineering, photography, graphic design, computers, health and fitness, nutrition, physical education, drug and gang prevention, teenage pregnancy, self esteem issues, discipline, and conflict resolution, biographies and narrations of comedy and drama stores, and biographies and news by musicians, comedians, athletes, role models, television and movie stars, radio personalities, and celebrities, all for children, students and young adults; computer programs for editing images, sound and video; computer programs for pre-recorded games; electronic game programs; computerized video table games for gaming purposes; interactive multimedia computer game program; interactive video game programs; interactive audio game discs containing action games and role playing games; interactive video games of virtual reality comprised of computer hardware for use with an external monitor and software; virtual reality game software; video game machines and video output game machines for use with televisions; video tapes and video disks recorded with animation; gaming equipment, namely, slot machines with or without video output; computer software for communicating with users of hand-held computers; computer software to enable the transmission of photographs to mobile telephones; computer software for wireless content delivery; computer software to enhance the audio-visual capabilities of multimedia applications, namely, for the integration of text, audio, graphics, still images and moving pictures; software for processing images, graphics and text; multimedia software recorded on CD-ROM featuring music, entertainment, and games; music-composition software; handheld computers, laptop computers, notebook computers, protective eyewear; sunglasses; eyeglasses; eyeglass frames; opera glasses; spectacles; eyeglass, sunglass and spectacle cases; eyeglass, sunglass and spectacle straps; eyeglass, sunglass and spectacle chains; telephones, cellular telephones, pagers, car kits for the adaptation of portable communication apparatus and instruments for vehicular use, principally composed of mount, cradle, headset, audio speakers, microphones, extension cords, power cables, external antenna connectors, battery, battery charger and carrying case sold as a unit; electronic handheld units for the wireless receipt and

transmission of data that enable the user to keep track of or manage personal information; software for the redirection of messages, global computer network e-mail, and other data to one or more electronic handheld units from a data store on or associated with a personal computer or a server; software for the synchronization of data between a remote station or unit and a fixed or remote station or unit; electronic personal organizers; personal digital assistants; handheld computers and organizers in the nature of a handheld computing device and a cradle which allows the exchange of information between the handheld computing device and a desktop carrying cases for the foregoing goods and replacement parts for the foregoing goods; instruction manuals distributed with the foregoing; prepaid magnetically encoded telephone calling cards; prepaid cellular telephones used in connection with prepaid airtime cellular telephone communication services; magnetically encoded credit cards; magnetically encoded debit cards; cellular phones and magnetically encoded debit cards sold together as a unit

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	2926291	Application Date	07/22/2004
Registration Date	02/15/2005	Foreign Priority Date	NONE
Word Mark	THANK YOU		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 2004/07/12 First Use In Commerce: 2004/07/12 promoting the goods and services of others through credit card customer loyalty, reward and redemption programs		


U.S. Registration No.	3249982	Application Date	12/02/2004
Registration Date	06/05/2007	Foreign Priority Date	NONE
Word Mark	THANKYOU		

Design Mark	THANKYOU
Description of Mark	NONE
Goods/Services	Class 035. First use: First Use: 2004/06/12 First Use In Commerce: 2004/06/12 Promoting the goods and services of others through credit card customer loyalty, reward and redemption programs


U.S. Registration No.	3948111	Application Date	11/20/2007
Registration Date	04/19/2011	Foreign Priority Date	NONE
Word Mark	CITI THANKYOU		
Design Mark	CITI THANKYOU		
Description of Mark	NONE		
Goods/Services	Class 036. First use: First Use: 2011/01/04 First Use In Commerce: 2011/01/04 Credit card services		

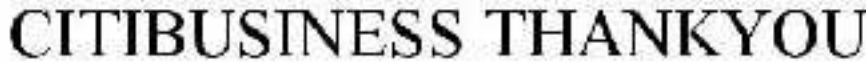
U.S. Registration No.	3865687	Application Date	10/14/2009
Registration Date	10/19/2010	Foreign Priority Date	NONE
Word Mark	THANKYOU CITI REWARDS		

Design Mark	
Description of Mark	The mark consists of the word "THANKYOU" above the words "CITI REWARDS".
Goods/Services	Class 035. First use: First Use: 2010/06/06 First Use In Commerce: 2010/06/06 Promoting the goods and services of others through administration of incentive reward and redemption programs by distributing rewards for credit card use, and for banking and wealth management customer loyalty

U.S. Registration No.	3946014	Application Date	02/22/2010
Registration Date	04/12/2011	Foreign Priority Date	NONE
Word Mark	THANKYOU		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 036. First use: First Use: 2011/01/04 First Use In Commerce: 2011/01/04 Providing credit card services		

U.S. Registration No.	3956034	Application Date	06/22/2010
Registration Date	05/03/2011	Foreign Priority Date	NONE
Word Mark	CITI THANKYOU		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 035. First use: First Use: 2010/06/00 First Use In Commerce: 2010/06/00 Promoting the goods and services of others through administration of incentive reward and redemption programs by distributing rewards for credit and debit card use, and for banking and wealth management customer loyalty

U.S. Registration No.	4215563	Application Date	03/18/2011
Registration Date	09/25/2012	Foreign Priority Date	NONE
Word Mark	CITIBUSINESS THANKYOU		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 2012/05/01 First Use In Commerce: 2012/05/01 Promoting the goods and services of others through administration of incentive reward and redemption programs by distributing rewards for credit card use Class 036. First use: First Use: 2012/05/01 First Use In Commerce: 2012/05/01 Providing credit cards services		

Attachments	76603661#TMSN.gif (1 page)(bytes) 78525763#TMSN.jpeg (1 page)(bytes) 77334455#TMSN.jpeg (1 page)(bytes) 77848213#TMSN.jpeg (1 page)(bytes) 77981515#TMSN.jpeg (1 page)(bytes) 85068362#TMSN.jpeg (1 page)(bytes) 85977377#TMSN.jpeg (1 page)(bytes) Notice of Opposition - THANK YOU AND YOU'RE WELCOME.pdf (5 pages)(18282 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/ABP/
Name	Anita B. Polott
Date	03/08/2013

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

CITIGROUP INC.,

Opposer,

v.

MASCOTTE HOLDINGS, INC.,

Applicant.

Mark: THANK YOU AND YOU'RE
WELCOME

Serial. No. 85/447,523

NOTICE OF OPPOSITION

Citigroup Inc. (“Citigroup” or “Opposer”), a Delaware corporation with its principal office at 399 Park Avenue, New York, NY 10043, believes that it would be damaged by the registration of the designation THANK YOU AND YOU'RE WELCOME, shown in U.S. Trademark Application Serial No. 85/447,523 (“Applicant’s Designation”), filed by Mascotte Holdings, Inc. (“Applicant”) and hereby opposes same.

As grounds for opposition, Citigroup alleges as follows:

1. For many years, Opposer has used marks consisting of and containing THANKYOU, including THANKYOU, CITI THANKYOU, THANKYOU CITI REWARDS and CITIBUSINESS THANKYOU in connection with credit card, banking and other financial services and a variety of customer loyalty, reward, incentive and redemption programs (collectively, the “THANKYOU Marks”).

2. Opposer owns multiple applications pending before and the following registrations, among others, issued by the United States Patent and Trademark Office (“PTO”) for Opposer’s THANKYOU Marks:

3.

Registration Number	Mark	International Class	Filing Date	Date of First Use
Reg. 2,926,291	THANK YOU and Design	Class 35	07/22/2004	07/12/2004
Reg. 3,249,982	THANKYOU	Class 35	12/2/2004	06/12/2004
Reg. 3,948,111	CITI THANKYOU	Class 36	11/20/2007	01/04/2011
Reg. 3,865,687	THANKYOU CITI REWARDS	Class 35	10/14/2009	06/06/2010
Reg. 3,946,014	THANKYOU	Class 36	02/22/2010	01/04/2011
Reg. 3,956,034	CITI THANKYOU	Class 35	06/22/2010	06/00/2010
Reg. 4,215,563	CITIBUSINESS THANKYOU	Class 35	03/18/2011	05/01/2012

4. The registrations referenced above are valid and subsisting, in full force and effect, and constitute *prima facie* and/or conclusive evidence of the Opposer's exclusive right to use the marks in commerce in connection with the services specified in the registrations.

5. Registration No. 2,926,291 is incontestable pursuant to the provisions of Section 15 of the Lanham Act, 15 U.S.C. § 1065, and constitutes conclusive evidence of Opposer's exclusive right to use the mark in commerce in connection with the services specified in the registration.

6. In addition to the federal registrations referenced above, Opposer owns significant common law rights in the THANKYOU Marks by virtue of the continuous use of the one or more of the THANKYOU Marks since at least as early as July 12, 2004.

7. During the longstanding, widespread and continuous use of the THANKYOU Marks, Opposer has expended considerable time, effort, and money in advertising and promoting the sale of services using the THANKYOU Marks.

8. Opposer has sold and offered for sale services using the THANKYOU Marks in a trading area of broad geographical scope encompassing the United States.

9. Opposer has sold and offered for sale services using the THANKYOU Marks in numerous channels of trade.

10. Opposer's THANKYOU Marks are symbolic of the extensive goodwill and consumer recognition that Opposer has established through substantial expenditures of time, effort and other resources in the advertising and promotion of the services Opposer sells and offers for sale under the THANKYOU Marks.

11. As a result of Opposer's regular, extensive and well-publicized use, the THANKYOU Marks are associated exclusively with Opposer and its high quality services.

12. On October 14, 2011, Applicant filed an intent-to-use application under Section 1(b) of the Lanham Act, 15 U.S.C. § 1051(b), for federal registration of the designation THANK YOU AND YOU'RE WELCOME shown in Application Serial No. 85/447,523. This application covers a wide array of goods in Class 9.

13. Applicant's Designation was published for opposition in the *Official Gazette* on September 11, 2012.

14. The Trademark Trial and Appeal Board extended the opposition period for Applicant's Designation by granting Opposer's timely requests for extensions. The opposition period for Application Serial No. 85/447,523 expires on March 10, 2013. Opposer therefore timely files this opposition.

15. Opposer's rights to the THANKYOU Marks are superior to those of Applicant.

16. Applicant's application for and any use of Applicant's Designation are without the consent, authorization, or license of Opposer.

17. Opposer believes it will be damaged by registration of Applicant's Designation under Section 13 of the Lanham Act, 15 U.S.C. § 1063, on the ground that the subject designation so resembles the THANKYOU Marks used by Opposer in the United States as to be likely, when used on or in connection with the goods identified in the application for Applicant's Mark, to cause confusion, mistake or to deceive consumers, with consequent injury to Opposer and to the public, in violation of Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

WHEREFORE, Citigroup prays that Application Serial No. 85/447,523 be refused, that no registration be issued to Applicant, and that this opposition be granted in favor of Citigroup.

Dated: March 8, 2013

Respectfully submitted,

By: /Anita B. Polott/

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Attorneys for Opposer
Citigroup Inc.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Notice of Opposition has been sent via first class mail, postage pre-paid, this 8th day of March, 2013 to:

BRAD D. ROSE
PHILLIPE ZYLBERG
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NEW YORK, NEW YORK 10036-6569

/s/ Jordana Rubel
Jordana Rubel